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Attorneys for Plaintiff and the Proposed Class

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DR. TIMOTHY COLLINS and SIDNEY
NAIMAN, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

TOTAL MERCHANT SERVICES, INC.,
QUALITY MERCHANT SERVICES, INC.,
MICHAEL ALIMENTO and BOBBY
POWERS

Defendants.

Case No. 4:17-cv-03806-CW

**DECLARATION OF JON B.
FOUGNER IN SUPPORT OF
PLAINTIFF'S MOTION FOR
CLASS CERTIFICATION**

JURY TRIAL DEMAND

Complaint Filed: July 5, 2017

DATE: August 14, 2018

TIME: 2:30 p.m.

LOCATION: 1301 Clay St.,
Oakland, CA 94612

1 I, Jon B. Fougner, declare under penalty of perjury:

2 1. I am over 18 years of age. I am an attorney duly licensed to practice law in the
3 States of California and New York.

4 2. I am co-counsel of record to the Plaintiffs in this case.

5 3. The following facts are of my personal knowledge. If called as a witness I could
6 and would testify competently as to their truth.

7 4. I submit this declaration in support of Plaintiff Sidney Naiman's Motion for Class
8 Certification.

9 5. I received my J.D. from Yale Law School in 2014. At that time, Yale was the #1
10 ranked law school in the country, according to U.S. News & World Report.

11 6. During law school, I worked as a summer associate Wachtell, Lipton, Rosen &
12 Katz. At that time, Wachtell Lipton was the #1 ranked law firm in the country, according to
13 Vault.

14 7. During law school, I worked as a summer associate at Munger, Tolles & Olson
15 LLP.

16 8. I was selected as an editor of *The Yale Law Journal*.

17 9. I am the author of *Antitrust Enforcement in Private Equity*, 31 Yale J. on Reg.
18 Online 25 (2013).

19 10. During law school, I was awarded the Judge Ralph K. Winter Prize in economics
20 and the William K.S. Wang Prize in business organizations.

21 11. I passed the July 2014 New York Bar Examination on the first try and was
22 admitted to practice in March 2015.

23 12. I passed the July 2016 California Bar Examination on the first try and was
24 admitted to practice in January 2017.

25 13. I have served as putative class counsel in several putative TCPA class actions,
26 including as follows.

27 a. In *Perrong v. Macy's Inc.*, 2:18-cv-01382-GEKP, (E.D. Pa. filed Apr. 2,
28 2018), I am lead counsel.

b. In *Fabricant v. United Card Solutions LLC*, Case 2:18-cv-1429 PA (FFMx) (C.D. Cal. filed Feb. 21, 2018), I have participated in the drafting of motions and other papers.

c. In *Berman v. Freedom Fin. Network, LLC*, Case 4:18-cv-01060-DMR (N.D. Cal. filed Feb. 19, 2018), I am co-lead counsel and have drafted motions, pleadings and other papers.

14. I have served as lead counsel to the plaintiff(s) in several other TCPA cases, including as follows.

a. *Cunningham v. Performance SLC LLC*, Case 8:18-cv-01093 (C.D. Cal. filed June 20, 2018);

b. *Cunningham v. Student Loan Advocacy Grp.*, 3:18-cv-00329-GPC-JLB (S.D. Cal. filed Feb. 10, 2018) (settled); and

c. *Heidarpour v. Empire Capital Funding Grp. Inc.*, Case 4:18-cv-00250-KAW (N.D. Cal. filed Jan. 11, 2018) (recommendation of default judgment in the amount of \$105,975).

15. I keep up with developments in TCPA and class action practice, including through CLE. For example, I attended the 21st Annual National Institute on Class Action on October 26-27, 2017 in Washington, D.C. and the 5th Annual Western Regional CLE Program on Class Actions and Mass Torts on June 22, 2018 in San Francisco.

RESPECTFULLY SUBMITTED AND DATED this 10th day of July, 2018.

By: /s/ Jon B. Fougner
Jon B. Fougner

Attorney for the Plaintiffs and the Proposed Classes